

# Notice of Allowability

## Application No.

09/674,706

## Examiner

Ella Colbert

## Applicant(s)

BRISCOE ET AL.

## Art Unit

3696

### - The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 03 June 2009.
2. ☒ The allowed claim(s) is/are 1,4-25,30,32,33 and 39-46.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

### THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_.
- Identifying Indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 28 September 2009.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_.

### **DETAILED ACTION**

1. Claims 1, 4-25, 30, 32, 33, and 39-46 are pending. Claims 1, 10, and 46 have been amended in this communication filed 06/30/09 entered as Response After Non-Final Action and Request for Extension of Time.
2. The claim objections for claim 16 is considered moot in view of reconsideration of the objection.
3. The 35 USC 112, second paragraph rejections have been overcome by Applicants' amendments to the claims and are hereby withdrawn.

### ***EXAMINER'S AMENDMENT***

3. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicants', an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this Examiner's amendment was given in a telephone communications by Attorney Raymond Y. Mah on 24 August 2009 and 28 September 2009.

### ***In the claims***

4. Claims 1 and 46 have been amended as follows:
  1. (currently amended) A method of operating a communications network comprising:
    - a) measuring at each of a plurality of customer terminals usage by the respective customer terminal of network resources;

b) calculating a network usage charge from measurement data generated by said measuring at each of the plurality of customer terminals usage by the [the] respective customer terminal of network resources in step (a); and

c) sampling usage of the network resources by at least one of the customer terminals by performing:

(i) measuring a portion of the usage of the network resources by the at least one of the customer terminals; and

(ii) comparing data corresponding to the measurement of the network resources in step (c) (i), with respect to the sampled usage, with data corresponding to one or both of the usage of network resources measured by the at least one customer terminal in step (a) and the network usage charge calculated in step (b).

46. (currently amended) A method of operating a communications network having network resources and including a plurality of customer terminals operable to use the network resources, the method comprising:

- a) each terminal measuring the amount of network resources which [it] said each terminal uses; b) calculating a charge with respect to each terminal for [its] said each terminal's use of the network resources as determined by the respective terminal measuring the amount of network resources which [it] said each terminal uses in step (a); and
- c) performing a sampling step to check the validity of the measurement of the amount of network resources .performed by each terminal, wherein at some part of

the network other than at the respective terminal, only a part of the total use of network resources made by the respective terminal is measured and compared with data corresponding to either the measurements of the amount of network resources taken by the respective terminal in step (a) or the charge calculated in step (b).

***Allowable Subject Matter***

Claims 1, 4-25, 30, 32, 33, and 39-46 are allowed.

The following is an examiner's statement of reasons for allowance: The closest prior art Crosskey et al. (US 6,035,281) discloses billing for the amount of bandwidth for each party based on a function of the share and client bandwidth usage. Crosskey et al. does not disclose measuring a portion of the usage of the network resources by at least one of the customer terminals and comparing the data corresponding to the measurement of the network resources with respect to the sampled usage, with data corresponding to one or both of the usage of network resources measured by the customer terminal and the network usage charge calculated in step (b), and performing a sampling step to check the validity of the measurement of the amount of network resources performed by each terminal. Kirby et al. discloses the network determining a charging rate for a call dependent on a tariff relating to the charging rate to the bandwidth reserved and utilized by the call. Kirby does not disclose measuring a portion of the usage of the network resources by at least one of the customer terminals and comparing the data corresponding to the measurement of the network resources with respect to the sampled usage, with data corresponding to one or both of the usage of network resources measured by the customer terminal and the network usage charge

calculated in step (b), and performing a sampling step to check the validity of the measurement of the amount of network resources performed by each terminal. Roche, Don, Jr. discloses an online log for windows that keeps track of a user's online sessions and estimates the cost of each session but does not disclose measuring a portion of the usage of the network resources by at least one of the customer terminals and comparing the data corresponding to the measurement of the network resources with respect to the sampled usage, with data corresponding to one or both of the usage of network resources measured by the customer terminal and the network usage charge calculated in step (b), and performing a sampling step to check the validity of the measurement of the amount of network resources performed by each terminal. Busse, I.: "Accounting management for global broadband connectivity services" discloses an accounting process that covers all of the steps from selecting a tariff during the subscription and service configuration phase, via usage metering, charging, and billing to invoicing but does not disclose measuring a portion of the usage of the network resources by at least one of the customer terminals and comparing the data corresponding to the measurement of the network resources with respect to the sampled usage, with data corresponding to one or both of the usage of network resources measured by the customer terminal and the network usage charge calculated in step (b), and performing a sampling step to check the validity of the measurement of the amount of network resources performed by each terminal.

***Other Prior Art***

Saari et al. (US 6,338,046); Ginzboorg et al. (US 6,047,051); Dent et al. (US 6,098,878); Kelly et al. (US 6,088,659); Sawyer (US 5,828,737); and Gell (US 6577858).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Inquiries**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Monday, Tuesday, and Thursday, 5:30AM-3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dixon Thomas can be reached on 571-272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ella Colbert/  
Primary Examiner, Art Unit 3696

September 29, 2009